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ONTARIO PUBLIC SCHOOL BOARDS' ASSOCIATION

SUBMISSION ON BILL 162

AN ACT TO AMEND THE WORKERS' COMPENSATION ACT

The Ontario Public School Boards' Association, on behalf of the public school boards of education in Ontario is pleased to advise that it supports the intent and direction of the changes proposed in Bill 162. The amendments to the **Workers' Compensation Act** contained in Bill 162 will make a fairer and better compensation system.

While endorsing the general principles of reform contained in Bill 162, the Association would comment on several areas where clarification would be helpful.

"Dual Award" Pension System

OPSBA supports the creation under Bill 162 of a "dual award" pension system, under which permanently disabled workers may be compensated for both future economic loss and non-economic loss such as pain and suffering. OPSBA believes that this new system will be fairer and more equitable than the current system."

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Reinstatement and Re-employment

OPSBA supports in principle the concept of reinstatement and re-employment rights and obligations. However, we believe that the provisions of section 54b of Bill 162 should be clarified in recognition of the following points:

1. The right to be re-employed and reinstated should only apply if the worker can provide the employer with sufficient medical and other information which would satisfy the employer's obligations to the worker and his co-workers under the **Occupational Health and Safety Act**.

2. The right to be re-employed should only apply to positions or work which the employer continues to require to be performed at the time the worker is able to return to work.

3. The worker should have the present ability to perform the work without a training or trial period.

4. The government should be concerned about whether or not it wishes the reinstatement rights of injured workers to

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take precedence over the seniority rights of other employees covered by collective agreements or the employment security of employees who are not represented by a trade union.

Obligation to Offer Modified Work

In a statement to the Legislature on January 19, 1989, the Minister of Labour indicated, among other things, that the reinstatement provisions of Bill 162 would be amended to require employers "to offer injured workers modified work in keeping with the spirit and intent of recent changes to the **Human Rights Code**."

OPSBA wishes to point out that the obligation to provide modified work could in some circumstances mean that employers would be expected to create work for injured workers which would not otherwise be required by the employer. In addition, the employment rights of injured workers and the obligations of employers could thus be determined under Bill 162, the **Human Rights Code**, the **Occupational Health and Safety Act**, or the provisions of a collective agreement. There is thus great potential for confusion and inconsistency. OPSBA would prefer that the whole issue of injured worker job rights be fully canvassed and determined in one forum."

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Vocational Rehabilitation

OPSBA supports Bill 162's emphasis on vocational rehabilitation programmes. However, OPSBA recommends that the present provisions of section 54 of the **Workers' Compensation Act** be amended to make it clear that vocational rehabilitation expenses incurred by Schedule 1 employers will not be considered by the WCB for experience rating purposes or for penalty assessment purposes. To do otherwise, as is the case under current WCB policy, may not facilitate achievement of the objective of encouraging all employers to assist in rehabilitation efforts."

Conclusion

OPSBA supports the general aims and concepts embodied in Bill 162. It is hoped that the concerns and recommendations contained in this brief will be of assistance to the government in promulgating the final Bill."

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